

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
KELLY PRICE,

Plaintiff,

-against

THE CITY OF NEW YORK, ROSE 15-CV-5871
PIERRE- LOUIS, in her individual and
official capacity, SELVENA BROOKS, in
her individual and official capacity,
INSPECTOR OLUFUNMILO F. OBE, in
her individual and official capacity,
DETECTIVE LINDA SIMMONS, in her
individual and official capacity, OFFICER
JOHN STAINES, in his individual and
official capacity, OFFICER ISELAINÉ
GUICHARDO HERMENE GILDO CRUZ,
in her individual and official capacity, LT.
NICHOLAS CORRADO, in his individual
and official capacity; LIEUTENANT
RAYMOND DEJESUS, in his individual
and official capacity; OFFICER EMMET, in
his individual and official capacity;
SERGEANT SHEVTIZ, in his individual
and official capacity; MTA OFFICER
STEPHEN MEARS, in his individual and
official capacity; MTA OFFICER ALISON
SCHMITT, in her individual and official
capacity
Defendants

LETTER ref: January
11, 2022 DANY Filing

Hon. Katherine Polk Failla
United States District Judge
c/o Pro Se Office
United States District Court
Southern District of New York
500 Pearl Street, Room 230

New York, NY 10007

Re: Insufficient Response from DANY filed on January 11, 2022

Dear Hon Judge Failla:

I want to first share with the court how extremely distraught I have been for the last few months. My father died of terminal cancer on October 11, 2021 and no one from my family even bothered to tell me. His obituary was run in the Colorado Springs Gazette Telegraph without my name mentioned as a survivor and I wasn't even told about his funeral service. I discovered his passing when I called his house to hear his voice on his outgoing VM and found the line disconnected. I googled my father's name and found his obituary. My family for years has told me I am not welcome back into the family because of the mess the DA made of my life. They kept telling me "The District Attorney of Manhattan doesn't make mistakes." My father, a lifelong criminal defense attorney himself, had been waiting for me to clear my name for the past decade. When I was a little girl he used to let me stay up late to watch "Law & Order" with him. He loved the program: he imagined the Manhattan DA's office was a place of ethics and honorable people—unlike the people he had worked for at the corrupt El Paso County DAs office in Colorado Springs, Colorado where I was raised.

We did not have a perfect relationship by any means but I am devastated and unwound that all this time my phones, with all the evidence needed to exonerate me, have sat in a file in Susan Roques Office at 1 Hogan Place while my life has been slowly crushed to dust and my father laid in his deathbed in Colorado, still waiting for his daughter to restore her name and return to him. Your honor: One of my earliest memories is from the courthouse in Cripple Creek, Colorado he took me to when I was a toddler to watch him on trial. The lady judge asked whose child had sat, motionless, throughout the proceedings and my father proudly told her I was his kid. She peered down at me and said: "what did you think of what you saw today?" I, being gobsmacked at seeing the deference my father had displayed toward her said: "I've decided I want to be a judge"

to the amusement of everybody on both sides of the bar. Your honor every time I have stood in your courtroom and looked up at you I have thought about that day with my father.

The year before that day in the Cripple Creek, Colorado Courthouse c. 1974 my father had quit the El Paso county DAs office because his boss forced him to prosecute a guy for murder whose confession was taken when a sheriff entered the holding pen he was in at the county lock up with his revolver, loaded a bullet into a chamber, spun it, placed it in the accused's mouth, fired it once without killing the guy in front of dozens of dudes stuffed in the pen, and said "guess you're a fan of Russian Roulette?" My father went into private criminal defense practice after that and fought his old bosses at the El Paso County DAs office tooth and nail for decades.

Another time when my dad was doing pro bono work he got a guy off of charges of prison escape when he was found outside of the fence of the minimum security prison in Florissant, CO but still inside a small fence surrounding the prison's sewer water pipe he had crawled out of across the highway...I think when that fella was released eventually he showed up every year in his truck with a quart or two of wood for our family to burn in our giant moss rock fireplace in our beautiful house on Altair Lane in the Cheyenne Mountain foothills all winter.

When I took a semester off from Mount Holyoke and picked-up classes at the local college because I had a boyfriend I was involved with in Colorado Springs my father was happy to oblige only partially because tuition was 1/50th of the cost. He was overjoyed to run into my Constitutional Law professor at the El Paso County courthouse: someone he had gone up against for years in court. He told my father: "your kid corrects ME in class and she's not a jerk about it like you are when you're on trial...I told her not to bother to take the final exam bc it would be a waste of both of our time...!" I remember my father's face as he leaned against the kitchen counter at our house on Pine Grove Avenue as he told me that story.

Your Honor, I am crushed to share these memories with you and I apologize for being so personal but my phones have sat in Susan Roques office for NINE YEARS as this case has made its way through the courts. It is wholly unacceptable for Susan Roque to keep feeding the court half truths, excuses, outright fraud and gaslit-filled moving papers. My father is gone, the houses

and things I loved in my childhood all sold and given away, my family still incredulous that their daughter has been chewed up by the mouth of the DANY and spit out, left for dead.

Again, I apologize for the personal nature of this letter, your Honor, but I need everyone involved to think hard about the excuses Susan Roque has been giving and put the NINE YEAR seizure of my phones and the destruction of the forensic reports extracted from the phones in context.

Your Honor: in response to Susan Roque's letter filed today I am compelled to clarify a few points:

1. Ms. Roque stated that she believes the handing over a "forensic report" of my cellphone is necessary to determine if DANY had used Cellebrite software to extract all data from my phone on 6/28/2011. The report I have (and that I have provided to the court) is an excel spreadsheet that DOES NOT HAVE the suspicious files with "DELETED" in the file names. The only place this appears is on the actual copy of the disc image of the phones themselves which I have provided screen shots of to DANY and to all parties and the court.

Other forensic Cellebrite experts have looked at these files and immediately recognized them as files recovered by Cellebrite's UFED Physical Analyzer Software. It is puzzling that the employees at the DANY's 10 million dollar phone tech lab are unable to draw the same conclusion. Why hasn't Ms. Roque provided a name of the "DANY IT supervisor" she claims needs a "forensic report" to evaluate and why hasn't she provided an affidavit from this mysterious "expert" to the court? During our September 17, 2021 hearing Susan Roque offered more detailed analysis allegedly shared by her tech experts: why is she holding back now?

2. I will present to the court an affidavit ASAP (when I finally receive it) from a certified Cellebrite specialist, known to NY State courts and the SDNY, that affirms my analysis of the mysterious files with the word "DELETED" in the file names on one of the phones illegally and unlawfully withheld from me for nine years. The files are in fact recovered

files that were found when Cellebrite UFED Physical Analyzer was run by the DANY on my phone on 6/28/2011 as the Cellebrite Expert will explain. I was hoping the new DANY would not keep allowing Susan Roque to make a mockery out of these proceedings, out of this court and out of my life but I expected too much. I will have the affidavit asap. I was hoping not to have to spend the money on this affidavit and was waiting to see what was filed today. Please your honor I am hoping you will allow me a week or two at most to get the affidavit to you (depending on the workload of my Cellebrite expert).

3. During our Sept 17, 2021 conference I presented the court with evidence that all Cellebrite extractions must be reported to Cellebrite along with a template of that report. Please your honor I beg you to consider asking DANY and Cellebrite for all of these reports on-passed from DANY to Cellebrite after June 28, 2011 for a period of at least a year.
4. Additionally I would like to beg the court to consider asking the DANY's "Forensic expert" to appear at a hearing and answer questions directly.

Humbly,
Miss Price

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/s/ [Kelly Price].
January 11, 2021